

HOLLAND & KNIGHT LLP
Leah E. Capritta (*pro hac vice* pending)
1801 California Street, Suite 5000
Denver, CO 80202
Telephone: (303) 974-6660
Facsimile: (303) 974-6659
Email: leah.capritta@hklaw.com

HOLLAND & KNIGHT LLP
Vince Farhat (SBN 183794)
400 South Hope Street, 8th Floor
Los Angeles, CA 90071
Telephone: (213) 896-2400
Facsimile: (213) 896-2450
Email: vince.farhat@hklaw.com

Attorneys for Debtor
TIGER NATURAL GAS, INC.

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re:

PG&E CORPORATION,

- and -

**PACIFIC GAS AND ELECTRIC
COMPANY,**

Debtors.

**PG&E CORPORATION,
PACIFIC GAS AND ELECTRIC
COMPANY,**

Plaintiffs,

v.

**PUBLIC EMPLOYEES
RETIREMENT ASSOCIATION OF
NEW MEXICO, *et al.***

Defendants.

Case No.: 19-30088(DM)
Chapter 11
(Lead Case)
(Jointly Administered)

**DECLARATION OF LEAH E.
CAPRITTA**

Date: March 27, 2019

Time: 9:30 a.m.

Before: Hon. Dennis Montali
United States Bankruptcy Court
Courtroom 17, 16th Floor
450 Golden Gate Ave.
San Francisco, CA 94102

DECLARATION OF LEAH E. CAPRITTA

I, Leah E. Capritta hereby declare as follows:

1. I am an attorney duly admitted to practice law before all the Courts of the State of Colorado; my application for admission *pro hac vice* is currently pending before this Court. I am a Partner at the law firm of Holland & Knight, and counsel of record for Defendant Tiger Natural Gas, Inc. (“Tiger”) in the case styled *Tiger Natural Gas, Inc. v. Pacific Gas & Electric Co.*, No. 4:16-cv-06711 (JSW) (White, J.), currently pending in the Northern District of California (the “Tiger case”). Unless indicated otherwise, I make the following declaration of my own personal knowledge, and if called upon to do so could and would competently testify to the facts set forth herein.

2. Attached hereto as Exhibit 1 is a true and correct copy of excerpts from the transcript of the deposition of Albert Torres taken on August 30, 2017.¹

3. Attached hereto as Exhibit 2 is a true and correct copy of excerpts from the transcript of the deposition of William Chen taken on August 22, 2017.

4. Attached hereto as Exhibit 3 is a true and correct copy of excerpts from the transcript of the deposition of Tanisha Brown taken on August 16, 2017.

5. Tiger’s claims resemble those brought by another CTA, United Energy Trading, against Debtor PG&E in a matter styled *United Energy Trading v. Pacific Gas & Electric Company*, 3:15-cv-02383-RS (Seeborg, J.) (the “UET case”). In 2018, the UET case completed all discovery, including expert discovery, and most pre-trial motions, including summary judgment and motions under the *Daubert* standard, and trial was to start on March 11, 2019.

¹ PG&E previously marked the depositions of Albert Torres, William Chen, and Tanisha Brown as “Highly Confidential—Attorneys’ Eyes Only.” On March 12, 2019, Laurie Edelstein, counsel of record for PG&E in the Tiger case, advised undersigned counsel via email that Tiger may file the attached transcript excerpts without seal.

1 6. Because of the similarities between the two cases, Debtor PG&E and Tiger have
2 worked together to ensure conservation of resources by both parties. For example, the parties
3 agreed to depose each PG&E witness once (unless the testimony was particular to either UET or
4 Tiger) and have agreed to certain discovery conventions. A single magistrate judge, Magistrate
5 Judge Sallie Kim, resolved discovery disputes in both cases.
6

7 7. The factual issues in both the Tiger case and the UET case center on Debtor
8 PG&E's billing and collections program, known as "CC&B," its programming, and changes to that
9 programming over the last decade.

10 8. On December 31, 2019, fact discovery largely closed in the Tiger case although the
11 Court ordered PG&E to provide an additional witness and a separate meeting of forensic
12 examiners on several issues surrounding the CC&B system (and the data provided by PG&E from
13 that system). Nevertheless, the parties completed fact discovery by the time Debtor PG&E filed
14 for Chapter 11 on January 31, 2019.
15

16 9. On February 11, 2019, the individual defendants served their expert report in the
17 Tiger case. The report disclosed the exact same experts used by PG&E in the UET case, Daniel
18 Ray and Martin Quinn, employing the same strategy and methodology as they did in UET case.
19 Mr. Ray reviewed the CC&B data for the accounts listed in the Tiger's complaint and opined that
20 no indicia of fraud exists, just as his report concluded in the UET case. Dr. Quinn provided an
21 historical retrospective, just as he provided in his initial report in the UET case. That is, PG&E
22 (and, by extension, the individual defendants) will likely follow the exact same expert strategy as
23 set forth the UET case.
24

25 10. On February 27, 2019, the District Court stayed the Tiger case in its entirety,
26 directing the parties to provide a status report every 180 days and reserving the right to
27
28

1 administratively close the case based pending resolution of this bankruptcy proceeding. Attached
2 as Exhibit 4 is a true and correct copy of Judge White's Order.

3 I declare under penalty of perjury under the laws of the United States of America that the
4 foregoing is true and correct.

5 Executed this 13th day of March in Denver, Colorado.

6
7
8
9 Dated: March 13, 2019.

HOLLAND & KNIGHT LLP

11 By: /s/Leah E. Capritta
12 Leah E. Capritta

13 *Attorney for Debtors,*
14 *Tiger Natural Gas, Inc*